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10/660,788

09/12/2003

Kousei Ohura

4059-14

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7590

07/08/2004

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EXAMINER

WINNER, TONY H

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/660,788

Applicant(s)

OHURA, KOUSEI

Examiner

Tony H. Winner

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 5-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 5-12 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 10/058,137
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election***

1. Applicant's election of species I filed 4/23/2004 without traverse is acknowledged and entered. Claims 1-8 were said to be readable on the elected species (Figures 1-8). Contrary to applicant's submission, claims 5-8 are not generic. Argumentatively, elected species I with claims 5-8 are not related to figures 1-8. Independent claim 5 recites a limitations, specifically, the upper opening on the first side is formed so as to be sunken lower than the height of the opening edge on the opposite side, which is corresponding to figure 10. Therefore, claim 5 will be withdrawn from consideration. Accordingly, claims 6-12 will be withdrawn from consideration because these claims are depended of claim 5. An action on the merits follows.

***Claim Objections***

2. Claims 1 and 3 is objected to because of the following informalities:

With regard to claim 1, it is unclear as to what the word "their" is referring to. Applicant should change the word "their" to -- helmets --, three occurrences.

With regard to claims 2 and 3, the words "the body width" should be changed to -- the vehicle's width -- so as to be in consistence with the claimed language of claim 1.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1 and 5 recite limitations that are replete with insufficient antecedent basis.

For example:

Claim 1 line 6 recites "the top",

Claim 1 line 8 recites "the surface",

Claim 1 lines 16-17 recites "the outer periphery",

Claim 1 line 19 recites "the upper opening brim",

Claim 1 line 6 recites "the top",

Claim 1 page 54, line 3 recites "the vehicle's width",

Claim 2 line 17 recites "the distal part",

Claim 3 line 8 recites "the vehicle's width" etc...

With regard to claim 2, it is unclear as to what comprising "a rib-like structure".

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Figure 15 labeled as Prior Art as part of U.S. Application 10/058,137 (U.S. Pub. No. 2002/0153693 A1) now abandoned.

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Figure 15 (Prior Art) discloses all the structural limitations of claims 1-4.

### **Comments**

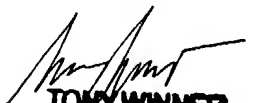
5. With regard to the Letter Explaining Application Differences (Amendment) filed 9/12/03, the office finds no support or evidence as to why applicant believes figure 15 of the parent application (10/058,137) no longer qualify as "Prior Art", and therefore, continue to apply the teaching as art rejection.

### **Conclusion**


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Takahashi ('784), Aoki ('585), Sako ('542), Sako ('579), Kumamaru et al. ('286), and Ota et al. ('188) are cited of interest.

7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (703) 306-5957. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
**TONY WINNER**  
**PATENT EXAMINER**

June 21, 2004

  
**LESLEY D. MORRIS**  
**SUPERVISORY PATENT EXAMINER**  
**RECEIVING CENTER 3600**